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**COPY MAILED**

JUN 10 2008

In re Application of  
Sundararajan Sriram  
Application No. 10/658,902  
Filed: September 10, 2003  
Attorney Docket No. TI-28564.1

**OFFICE OF PETITIONS**  
**ON PETITION**

This is a decision on the petition filed November 20, 2007, to withdraw the holding of abandonment, which is being treated under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.181(b) is **DISMISSED**.

This application became abandoned August 10, 2007 for failure to timely reply to the Notice to File Corrected Application Papers sent via email notification on July 9, 2007 and which set a thirty day period for response. No response having been filed, a Notice of Abandonment was mailed November 6, 2007.

The file record discloses that the Notice to File Corrected Application Papers was sent to what was believed to be the email address of record. However, petitioner contends that it was not received. In support of this contention, petitioner indicates that Applicant's representative checked the file wrapper for the above-identified application but could find no copy of the purported Office letter dated July 9, 2007 or any other Office communication sent to Applicant after the Issue Fee was paid on May 23, 2007. Applicant's representative next checked Applicant's electronic database to see if there was any indication of receipt of the purported Office letter dated July 9, 2007 or any other Office communication sent to Applicant after the Issue Fee was paid on May 23, 2007. Unfortunately, no copy of the purported Office letter dated July 9, 2007 or any other Office communication sent to Applicant after the Issue Fee was paid on May 23, 2007 was in the file.

Unfortunately, the requirement under 37 CFR 1.181, that copies of the actual docket records or file jacket be provided, has not been met. In a petition under 37 CFR 1.181 the petitioner must show, as in this instance where non-receipt is claimed that petitioner is without fault in not receiving the communication. In the absence of any irregularity in

the mailing, there is a strong presumption that the Office action was properly sent to the email address of record. This presumption may be overcome by a showing that the Office action was not in fact received at the email address of record.

The statements are not enough to substantiate the claim of non-receipt and no other corroborating evidence to prove non-receipt has been presented. In view thereof, the holding of abandonment cannot be withdrawn.

## ALTERNATIVE VENUES

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(a)<sup>1</sup> or 37 CFR 1.137(b),<sup>2</sup> which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional

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<sup>1</sup> A grantable petition under 37 CFR 1.137(a) must be accompanied by:

- (1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
- (2) the petition fee as set forth in 37 CFR 1.17(l);
- (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and
- (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

<sup>2</sup> Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

- (2) the petition fee as set forth in 37 CFR 1.17(m);

- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

- (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

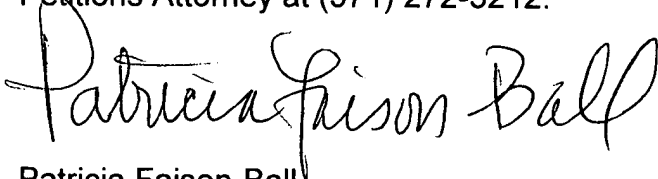
A copy of the Notice to File Corrected Application Papers with a July 9, 2007 notification date is included with the instant decision as a courtesy to the petitioner.

Further correspondence with respect to this matter should be addressed as follows:

By mail:       Mail Stop Petition  
                  Commissioner for Patents  
                  P.O. Box 1450  
                  Alexandria, VA 22313-1450

By FAX:       (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink, reading "Patricia Faison-Ball". The signature is written in a cursive, flowing style.

Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions

ATTACHMENT: July 9, 2007 Notice to File Corrected Application Papers



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
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Alexandria, Virginia 22313-1450  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,902	09/10/2003	Sundararajan Sriram	TI-28564.1	3595

23494 7590 07/09/2007  
TEXAS INSTRUMENTS INCORPORATED  
P O BOX 655474, M/S 3999  
DALLAS, TX 75265

EXAMINER
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CASCA, FRED A

ART UNIT	PAPER NUMBER
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2617

NOTIFICATION DATE	DELIVERY MODE
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07/09/2007

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspto@ti.com  
uspto@dlemail.itg.ti.com



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

Application No. : 10/658,902  
Applicant : Sriram  
Filing Date : 9/10/03  
Notification Date : 7/9/07

## NOTICE TO FILE CORRECTED APPLICATION PAPERS

### *Notice of Allowance Mailed*

This application has been accorded an Allowance Date and is being prepared for issuance. The application, however, is incomplete for the reasons below.

Applicant is given 30 days from the mail date of this Notice within which to correct the informalities indicated below. If the informality pertains to the abstract, specification (including claims) or drawings, the informality must be corrected with an amendment in compliance with 37 CFR 1.121 (or, if the application is a reissue application, 37 CFR 1.173). Such an amendment may be filed after payment of the issue fee if limited to correction of informalities noted herein. See Waiver of 37 CFR 1.312 for Documents Required by the Office of Patent Publication, 1280 Off. Gaz. Patent Office 918 (March 23, 2004). In addition, if the informality is not corrected until after payment of the issue fee, for purposes of 35 U.S.C. 154(b)(1)(iv), "all outstanding requirements" will be considered to have been satisfied when the informality has been corrected. A failure to reply will result in the application being ABANDONED. This period for reply is NOT extendable under 37 CFR 1.136(a).

Applicant must provide a brief description of FIG. 9 to be inserted immediately following line 13 of page 6 of the specification.

*A copy of this notice **MUST** be returned with the reply. Please address response to  
"Mail Stop Issue Fee, Commissioner for Patents,  
P.O. Box 1450, Alexandria, VA 22313-1450".*

Dale G. Olson  
Office of Patent Publication  
Phone: 703-308-9250 ext. 122